10:15:26

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VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

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PHILIP MORRIS COMPANIES, INC., et al.,

Plaintiffs,

-against-

At Law No. 760CL94X 00816-00

AMERICAN BROADCASTING COMPANIES, INC., et al.,

Defendants.

----------x

July 12, 1995
10:21 a.m.

HIGHLY CONFIDENTIAL - TRADE SECRET

Videotaped Deposition of DONALD KNUDSON, taken by Defendants, pursuant to Subpoena, at the offices of McGuire Woods Battle & Boothe, Esqs., 901 East Carey Street, Richmond, Virginia before Lee A. Bursten, a Registered Professional Reporter and Notary Public within and for the Commonwealth of Virginia.

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A P P E A R A N C E S:

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BY: ALEX E. ROGERS, ESQ.,
-and-
JOSEPH E. KILLORY, ESQ.,
of Counsel.

ALSO PRESENT:

SHELLEY SANDERS, Videographer

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

Donald Knudson - Volume 1

Page	Line	Correction
4	4	Change David to Donald
8	5	Add O.K. at beginning of line and After "turn" add "back"
18	8	Before "Turning" add "Okay."
28	20	After "Bermuda" add "One"
29	10	After "recall" add "the"
33	18	After "Bermuda" add "One"
33	21	After "Bermuda" add "One"
33	23	After "Bermuda" add "One"
39	10	Delete "are the"
53	16	From "forms" to "formation"
53	16	From "called the" to "called a"
56	15	From "for" to "of"
58	16	From "when" to "that"
75	11	From "loss" to "losses"
94	23	From "or" to "for"
95	22	From "if" to "that"
95	24	After "term" add "to use"
97	19	Change "maintains" to "maintained"
109	6	After "assuming" add "a --"
112	5	From "in" to "within"
120	11	Delete first "that" in sentence. Change second "that" to "they"
122	24	From "nondifferentiable" to "not differentiable"
123	21	From "Topic," to "Topic:"
124	25	From "the" to "a"
126	7	After "ladder" add "is a --"

Donald Knudson

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

Donald Knudson - Volume 1

Page	Line	Correction
129	5	From "this was written" to "of this meeting"
131	11	After "again" add "here"
134	16	From "ever did" to "did in fact"
137	4	After "stay" add "still"
145	10	From "truly" to "truthfully"
149	25	Delete comma after "general" and place comma after "response"
152	24	From "are" to "were"
153	17	After "applied" add "to"
153	17	From "to the" to "the"
156	14	From "Cylinder" to "The cylinder"
161	18	After "could" add "also"
171	2	Delete "I" and replace with "Really"
173	4	From "It's" to "No, it's"
180	17	From "dated" to "date"
188	2	From "1389482" to "138482"
190	7	Before "About" add "Background."
192	10	Change "processed" to "process"

Linda C. Thornton
Notary Public
City of Richmond
March 5, 1996
Comm. Exp. 2/28/97

Donald Knudson

Donald Knudson

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10:20:46 THE VIDEO OPERATOR: Good morning. This is the video operator speaking, Shelley Sanders, with Action Legal Video, Incorporated, 132 Nassau Street, New York, New York.

10:20:58 We are here this day, July 12th, 1995, at the time continuously recorded on the videotape -- the time on the screen is 10:21:05 -- at the offices of McGuire, Woods, Battle & Boothe, 901 East Carey Street, Richmond, Virginia, to take the deposition of Donald Knudson on behalf of the defendants in the matter of At Law Number 760CL94X 00816-00, entitled Philip Morris versus ABC, in the Circuit Court for the City of Richmond, Virginia.

10:21:38 Will counsel please introduce themselves.

10:21:40 MR. ROGERS: Alex Rogers for defendants, American Broadcasting Company, John Martin and Walt Bogdanich. I'm here with Ted Killory.

10:21:50 MR. MURPHY: David Murphy for plaintiffs Philip Morris Companies and Philip Morris U.S.A.

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10:21:54 THE VIDEO OPERATOR: The witness may
10:21:56 be sworn.

DONALD
~~DAVID~~ KNUDSON,

residing at [DELETED]

having been first duly sworn by the Notary Public (Lee A. Bursten), was examined and testified as follows:

10:22:06 EXAMINATION BY MR. ROGERS:

10:22:08 Q. Good morning, Mr. Knudson.

10:22:08 A. Good morning.

10:22:12 Q. You are the director of quality and
:22:14 specification systems at Philip Morris; is that
10:22:16 correct?

10:22:16 A. That's correct.

10:22:16 Q. Would you describe your
10:22:18 responsibilities?

10:22:22 A. The quality and specification systems
10:22:28 organization is a central function, a staff group
10:22:34 whose responsibilities are focused in four basic
10:22:40 areas. The first area is in the area of what we
10:22:44 refer to as manufacturing specifications.

10:22:46 That organization is responsible for
10:22:54 the maintenance and upkeep and distribution of a
:22:58 significant portion of the specifications,

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principally oriented towards finished product.

They also have responsibility for maintenance activities around adjustments to those specifications, where those specifications may include either the product or the direct materials involved in the product, for instance the packaging materials.

The second part of the organization is focused on what we refer to as visual and functional quality, that is, packaging defects, cigarette defects. That also includes the functionality that handles our consumer complaints.

The third portion of the group is a bit split in that it has several functionalities, one of which is the laboratory responsible for the standardization or establishing the methods for standardization of testing protocols to be observed in the laboratories.

The other part of that group is focused on our vendors or suppliers, and it's to best assess the quality of the performance of those suppliers and to interact with them in conjunction with the purchasing department.

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10:24:32 The fourth group is a group whose
10:24:38 focus is on the operation side of the business,
10:24:42 where we -- our current focus is almost
10:24:44 exclusively confined to making and packing
10:24:48 operations, and they are basically the labor arm
10:24:54 associated with setting up tests in factories to
10:24:58 either explore sources of defects, to try and
10:25:00 find root cause, and as a result, solutions to
10:25:06 those root causes, or to explore the areas of
10:25:10 material changes and the impact of those material
10:25:14 changes on processing, for instance, of changes
:25:18 in a cigarette paper, a tipping paper, a
10:25:22 packaging material, and whether or not a given
10:25:26 piece of equipment perceives that changed product
10:25:28 in the same way that it did the predecessor
10:25:30 product.

10:25:34 That essentially encapsules the
10:25:36 organization. As the director of that
10:25:40 organization, my overall functionality is to
10:25:48 focus or to develop a focus for the company on
10:25:54 how we might define quality and measure that
10:26:00 result in defined quality and improve that
10:26:02 quality vis-a-vis both our customers and our
:26:02 consumers.

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10:26:04 We make a distinction between our consumers who are the end users of the product and our customers, who is anyone in between our production of the product and its subsequent delivery to an end consumer.

10:26:20 Q. Okay. You've used the word "group" a few times. How large an entity is -- is there a separate department for quality assurance and specifications, or working group?

10:26:34 A. The organization I'm responsible for is a group of about a hundred people. In fact I think I authorized manning as right around a hundred people. The size of people of the groups within that organization varies from less than 20 to somewhere, 30 or slightly more than 30. But it's relatively evenly proportioned across the four groups.

10:27:06 Q. How long have you been the director of this group?

10:27:08 A. I've been the director of quality and specification systems since it was reconfigured into that formation back in October of '93, I believe. Prior to that I was the director of the quality assurance organization, which was, again,

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a central functionality, and I became the director of that functionality in February of 1991.

Q. O.K. Let's turn back to the existing entity as it exists since October '93. Do you know why the departments were reconfigured in October of '93?

MR. MURPHY: I object to the form of the question. I just want to remind you, Alex, that there is a discovery cutoff in this case of March 24, 1994. I'll let the witness describe the activities of his organization between the period, of course, October 1993 and up to the cutoff date of March 24, 1994.

With that limitation, you can answer the question.

A. Historically there have from time to time been considerations given as to whether or not the quality organization, central quality organization should be reduced in its scope with more responsibility given to the factories, the factory quality organizations, whether it should be expanded in its scope, whether it should be reconfigured to include different responsibilities.

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10:28:58 During my tenure in the job as
10:29:02 director of central quality assurance, we
10:29:08 probably went through a number of discussions
10:29:12 with different levels of management, depending
10:29:16 upon my reporting relationship at the time, as to
10:29:18 alternate configurations for the organization,
10:29:20 whether there were some parts of the organization
10:29:24 that would be most efficiently and effectively
10:29:28 operating were they located elsewhere in the
10:29:34 overall either staff or factory organizations.
10:29:36 So we went through a number of
:29:40 different scenarios, if you will, as to how we
10:29:44 might reconfigure. One of the questions that had
10:29:50 come up somewhere in the '92 to '93 time frame
10:29:54 was the whole area of specifications, since
10:29:58 functionalities in that area existed in a number
10:30:00 of different organizations, both with
10:30:02 manufacturing and within R&D.
10:30:08 There was an effort made to both try
10:30:10 and take a look at the system and the resulting
10:30:14 product to define deficiencies and to hopefully
10:30:18 from that come forward with some recommendations
10:30:20 that would result in, one, an improved
:30:24 organizational structure that would, two, lead to

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10:30:28 a better system for dealing with everything from
10:30:30 the development of and the maintenance and
10:30:36 utilization of specifications, and also in terms
10:30:38 of improving the quality of those
10:30:42 specifications.
10:30:44 In addition, as I mentioned, we had
10:30:46 several groups that reported to me at that time
10:30:52 that there were reasons to believe that it might
10:30:56 be more efficient for them to report differently
10:31:00 within the organization.
10:31:00 And as a result of all those
:31:04 considerations, a number of proposals were looked
10:31:06 at, and this particular organizational structure
10:31:08 was settled on.
10:31:10 Q. Who ultimately made the decision to
10:31:12 reconfigure in October of '93?
10:31:18 A. The final decision in terms of
10:31:26 accepting that configuration I think existed
10:31:28 between Bill Taylor, who was my boss at that
10:31:36 time, and Steve Darrah, who was the senior vice
10:31:36 president of manufacturing.
10:31:40 Q. You mentioned just a second ago that
10:31:44 you had several groups that reported to you. I
:31:46 take it that's prior to the reconfiguration, and

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10:31:48 that these groups were then part of the
10:31:50 reconfiguration; do I have that right?
10:31:52 MR. MURPHY: I object to the form.
10:31:52 You can answer.
10:31:56 A. It's very difficult without looking
10:31:58 at a whole series of organizational charts to
10:32:02 conceive of this, but the original organization
10:32:06 as it existed had a number of components which
10:32:10 were not necessarily aligned as they are
10:32:10 currently.
10:32:12 The organization that was merged into
:32:14 this group, which brought the manufacturing
10:32:16 specification functionality into it, had a number
10:32:18 of elements.
10:32:20 In arriving at this new
10:32:24 configuration, some partial elements or full
10:32:28 elements were reallocated elsewhere within the
10:32:30 Philip Morris structure, either to a factory
10:32:34 level or a staff level, and some elements from
10:32:38 this other organization were brought in to form
10:32:40 the current manufacturing specifications group.
10:32:42 Other pieces of that organization
10:32:46 were moved elsewhere within this newly formed
:32:50 organization to try and put common

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functionalities together and avoid what was perceived as some duplication of work.

Q. Okay. Let's turn back to the four groups that you specified that are part of the existing structure. Is there a group leader for each of those groups?

MR. MURPHY: Objection. Are we asking as of March 24, 1994?

MR. ROGERS: Sure.

MR. MURPHY: Okay.

A. There is a manager for each of those functionalities.

Q. Using March '94, again, as the date, do you recall who the manager of the first group that you described, the manufacturing specifications group, was?

A. Yes. That would be Lewis Watts.

Q. Do you recall who the manager was of the second group which you described as the visual and functional quality group?

A. That one has undergone some change, and what I'm having trouble is placing the exact timing of the placement of the manager. But I believe it was immediately subsequent to the

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reorganization. And so the manager at that point in time would have been Hester Dorer, D-o-r-e-r.

Q. The first name was Hester?

A. Hester.

Q. The same question for the third group, which I take you to mean the laboratory on standardization of testing, something of that nature?

A. That's one functionality, the vendor piece was another.

Q. Who was the manager of that group?

A. The manager of that group was -- as of March of 1994, the manager of that group was Ann ^ McDaniel.

Q. And the fourth group, the operations side of the business as you described it, who was the manager of that?

A. As of March of '94, that manager was Jesse Callaway.

Q. Turning back to the third group, you had described it earlier as sort of two separate parts. The first one I understand to be the laboratory and the standardization of testing, and then the second one having to do with vendors

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and suppliers.

Is there a separate manager for the vendors and suppliers aspect of this third group?

MR. MURPHY: I object to the form of the question. The testimony speaks for itself. But you can answer the question.

A. The organization is set up with section leaders that report to the managers who are responsible for any substructure within that organization.

Q. And using this March '94 date again, who was the section leader of the vendors and suppliers group?

A. I believe the section leader at that point in time was Barbara Carter.

Q. What is the structure or relationship between the section leader of the vendors and suppliers group that we've just been talking about and the manager of flavor technology?

MR. MURPHY: I object to the form. You can answer.

A. There is no structural relationship. Since that group is responsible for making

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assessments of vendors, the potential that some interaction occurs does exist.

Q. I take it when you use the words "vendors" and "suppliers" in referring to this group 3, that you included among that suppliers of flavors?

A. The overall description would relate to any direct material, what we categorize as direct material suppliers, which would include packaging materials, would include cigarette papers, tow, and it would also include casings and flavorings.

Q. Would it also include suppliers of tobacco extract?

MR. MURPHY: I object to the form. You can answer.

A. I'm not sure I understand what the significance of the question is.

Q. Are you familiar with the term "tobacco extract"?

A. Philip Morris uses the term "tobacco extract" in a number of ways which are not necessarily definitive to any one piece of the business.

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10:37:56 Q. What are -- I'm sorry to interrupt.

10:37:56 A. That's all right.

10:37:58 Q. What are the various ways that Philip Morris uses the term "tobacco extract"?

10:38:04 A. I can only site from my own experience and recollection, but I think as a generality, any liquor derived from tobacco, either intentionally or inadvertently, could in fact be called a tobacco extract. I don't know that that's an official Philip Morris terminology so much as a colloquial way of referring to something of that sort.

10:38:50 Q. Are there any other definitions of "tobacco extract" that you would include in specifying the number of ways in which Philip Morris uses that term?

10:39:00 MR. MURPHY: I object to the form of the question. I think it's confusing. But --

10:39:04 MR. ROGERS: I think you're right. That's a fair point.

10:39:06 Q. You said earlier there are various ways that Philip Morris uses the term "tobacco extract." You've just described for me one, which was any liquor derived from tobacco, either

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10:39:18 intentionally or inadvertently. And I'm asking,
10:39:22 are there other aspects of the definition that
10:39:24 you would include.
10:39:26 MR. MURPHY: I object to the form of
10:39:28 the question and would move to strike the summary
10:39:30 of the witness's testimony, which speaks for
10:39:32 itself. That said, you can answer the question.
10:39:36 A. I think that the answer that I gave
10:39:42 you is -- represents to the best of my knowledge
10:39:46 the full breadth of those kind of things that
10:39:48 might occur, that one might refer to that as a
:39:50 tobacco extract.
10:39:52 For example, if I were to take a
10:39:54 small amount of tobacco and put it on the table
10:40:04 here and subject it to any exposure to water, and
10:40:08 subsequently, obviously in a number of
10:40:12 circumstances there might be a discoloration to
10:40:16 the water, and I think anyone would make the
10:40:16 assumption that something had moved out of the
10:40:18 tobacco into the water.
10:40:22 As such, that liquor, if you will,
10:40:26 that water that's left behind is in fact a form
10:40:28 of tobacco extract, not necessarily intentionally
:40:32 done, but it did occur. To the same extent, if

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that's now dried down and still leaves some form of a residue, then it's a residue from a tobacco extract.

So I guess my point is I think the term is used very generically to cover a broad number of situations.

Q. Okay. Turning back to the four groups that you've described, I want to focus on some of the descriptions and see if I can better understand them. The first group, manufacturing specifications, as I understand, one element of that, as you described it, is the maintenance and upkeep of specifications.

When you use the term "manufacturing," do you include in that all production stages, or are there specific production stages that fall under the title "manufacturing"?

MR. MURPHY: I object to the form. You can answer the question if you understand it.

A. The term "manufacturing" wouldn't necessarily be inclusive or exclusive. The fact of what's actually done is that that group is not

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responsible for all of the specifications.

Their responsibility lies principally in the specifications associated with either direct materials, that is, the specifications associated with the purchase of direct materials. And that direct materials category in that case is limited to the packaging, papers, corrugated cases, those categories of materials.

They are also responsible for the finished product specifications and the maintenance of that information, which is provided to the -- what we refer to as the make pack floor, which is the basis for putting together the appropriate final product.

Q. What are the finished product specifications?

A. I don't know that I could enumerate what all those specifications are.

Q. To the best of your recollection, sitting here now.

MR. MURPHY: I object to the form. Maybe we can clarify, Alex, are you asking him what the specifications for each product might be?

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10:43:02 MR. ROGERS: I'm sorry.

10:43:02 MR. MURPHY: Or are you asking him to describe his general understanding of what the finished product specifications consists of?

10:43:08 MR. ROGERS: I'm asking for the latter. I appreciate that objection.

10:43:12 Q. I'm not asking for the specific numbers. I'm asking for the categories that comprise the finished sheet -- finished product, rather, specifications.

10:43:22 MR. MURPHY: Just a minute. I object again to the form. I know you're not intending to be unclear with the witness. I'm just trying to find out, Alex, whether you're asking him to describe the types of information that are on finished sheet specifications, by category, or whether you're asking him to describe what the specifications are and how they're used.

10:43:48 I think those are different questions.

10:43:50 MR. ROGERS: I'm asking first about the categories.

10:43:52 MR. MURPHY: Okay.

10:43:56 A. The area that we're talking about is

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finished product from a make pack floor, which means the cigarette and its resultant packaging.

The information that's contained in the specification would be certain physical measurements along the lines of whether the product is a, quote, 83 or 84 or 85 millimeter product; the target weight that that product should be made to; the specification number of the filter plug that would be combined with the tobacco rod; specification numbers that would reference back to direct material information to define the cigarette paper, plug wrap, tipping paper; specifications related to if -- in the case of some of our products, the name of the product is actually printed on the cigarette in the course of -- on the cigarette paper in the course of making, so it would be a reference back to a part number that would correspond to the dye that was appropriate to that.

I'm sure there are a number of other parameters I'm not recalling off the top of my head at this point.

Q. Is tar a finished product specification?

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10:45:42 A. To the best of my knowledge, tar is a finished product specification on at least the majority of our product, finished product specifications.

10:45:56 Q. Is nicotine a finished product specification?

10:45:58 A. No, it's not.

10:46:00 Q. Is nicotine delivery a finished product specification?

10:46:02 A. No, it's not.

10:46:06 Q. The third section within this first group of manufacturing specifications that you mentioned had responsibility for the adjustment to specifications; is that correct?

10:46:22 A. That's correct. Sometimes because of performance of a product, it's deemed that some redesign of a product may be necessary. Depending upon the nature of that redesign, or adjustment to the product design, it may be made in that group or it may go back to the cigarette design group in R&D.

They work closely together. They have a solid understanding of when to make handoffs on those kind of things. An example of

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10:47:06 that might be certain expectations about the
10:47:12 firmness or hardness of the cigarette filter.
10:47:14 If for some reason a cigarette design
10:47:18 is resulting in a filter that doesn't perform in
10:47:22 such a way to reflect that degree of firmness or
10:47:26 hardness, it wouldn't be surprising to come in
10:47:30 and look at a reconfiguration of that filter,
10:47:34 which might involve changing the amount of tow
10:47:36 used in the production of that filter item, or it
10:47:44 might involve using a different tow item to
10:47:48 accomplish the net result, which would be to get
:47:50 a harder or firmer filter.
10:47:52 Q. Is blend formulation a finished
10:47:54 product specification?
10:47:56 MR. MURPHY: I object to the form of
10:47:56 the question. You can answer.
10:48:08 A. The blend formula is, again,
10:48:18 referenced by a specification identification as
10:48:22 it corresponds to the production of a product.
10:48:26 Q. So if there were to be an adjustment
10:48:30 in the blend formula for a particular brand,
10:48:34 would that decision be made by this first group
10:48:34 within your department?
:48:34 A. No.

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10:48:36 Q. Would this group within your
10:48:40 department have anything to do with a change in
10:48:42 the blend formula?
10:48:44 MR. MURPHY: I object to the form of
10:48:44 the question. You can answer.
10:48:50 A. The only involvement that they might
10:48:58 have would be -- one of the roles that they play
10:49:04 is to manage the tar delivery of the product, to
10:49:08 hold it within the tolerances of the
10:49:12 specification which are based, of course, on and
10:49:18 feed into the advertising publication of the tar
:49:20 numbers.
10:49:26 Should, for whatever reason, the tar
10:49:34 move either up or down beyond the tolerances
10:49:40 allowed for that, and should cigarette design
10:49:46 adjustments, i.e. in the construction or dilution
10:49:50 of the filter, or the type of cigarette paper
10:49:58 used, should those adjustments not bring the
10:50:02 product back into compliance, if you will, with
10:50:10 the specification, then a flag would go up, if
10:50:10 you will.
10:50:12 A communication would occur,
10:50:14 typically with the cigarette design organization,
:50:18 to see if there were other cigarette design

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parameters that could be explored. But the potential would exist that that could carry all the way back to a question of blend reformulation.

Q. How is tar delivery measured?

A. Tar delivery is measured by a -- for domestic product, what's referred to as the FTC smoking method.

Q. Is that the only device you use to measure tar?

A. For domestic product, to the best of my knowledge, that's the only measurement.

Q. There's no other machine that ever picks up tar delivery in the finished product?

MR. MURPHY: I object to the form of the question. I think it's vague. But you can answer the question.

A. I'm not aware.

Q. Where is your office located within the Richmond Philip Morris complex?

A. My office is in a building that is adjacent to what's referred to as the operations center.

Q. Do you have a separate building or

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facility just for your group?

A. We have a portion of the building that houses part of my organization. The rest of the organization is scattered through the operations center, and also includes an element that's housed within the manufacturing center.

Q. In terms of the organizational structure of Philip Morris, would you consider your group part of research and development or manufacturing or --

MR. MURPHY: I object to the form. You can answer.

A. Clearly by its organizational structure and reporting relationship it's part of manufacturing.

Q. Who do you report to?

A. I report to George Reed.

Q. And what's his position?

A. George Reed is the vice president of manufacturing technical services.

Q. Did he replace Steve Darrah?

A. No.

Q. What was Steve Darrah's position before he left the company?

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A. I believe Steve's title was senior vice president, manufacturing.

Q. Would George Reed be underneath Steve Darrah in the structure?

MR. MURPHY: I object to the form. I think it's easily remedied. Are you asking the witness whether Mr. Reed was underneath Mr. Darrah when Mr. Darrah was in the position of senior vice president, operations?

MR. ROGERS: Yes.

A. Yes.

Q. So Mr. Reed reported to Mr. Darrah?

A. That's correct.

Q. And who did Mr. Darrah report to?

A. At what time frame?

Q. March 1994, let's continue with that date.

A. I believe that Steve's reporting relationship at that point in time was to Bill Campbell.

A correction to the conversation that's just ensued. I believe, if in fact I was to hold to the March '94 date, that my reporting relationship was not to George Reed at that

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10:53:58 time.

10:54:02 Q. And that reminds me, if at any time
10:54:06 you want to go back to something you say, don't
10:54:08 hesitate to do that. Who in March of 1994 did
10:54:10 you report to?
10:54:10 A. Bill Taylor.
10:54:12 Q. And was he holding the position that
10:54:16 Mr. Reed has as you described it?
10:54:16 A. Yes.
10:54:24 Q. You mentioned earlier, prior to your
10:54:26 present service as the director of quality and
:54:30 specifications systems, you were the director of
10:54:34 quality assurance.
10:54:34 A. That's correct.
10:54:38 Q. Prior to that, what was your
10:54:40 position, if any, at Philip Morris?
10:54:44 A. Prior to coming to the central
10:54:48 quality function, my previous position was as the
10:54:52 plant manager of the Bermuda One Hundred facility.
10:54:58 Q. At what time frame would that have
10:54:58 been in terms of the dates?
10:55:02 A. If I recall correctly, that would
10:55:06 have been from October of 1989 until February of
:55:08 1991.

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10:55:12 Q. And what were you doing prior to
10:55:14 October of 1989?
10:55:20 A. For a period of years prior to 1989,
10:55:22 I was in the R&D organization.
10:55:26 Q. Do you remember the positions you
10:55:28 held within the R&D organization?
10:55:38 A. Yes. What I'm not sure is that I can
10:55:40 accurately recall the months. But I think I can
10:55:44 recall the years associated with my time in R&D.
10:55:46 I believe I came to R&D in the early
10:55:54 part of 1982 as the manager of the Semi-Works.
:56:06 In mid-1983, I essentially traded places with
10:56:10 another manager within what was called the
10:56:12 process development organization and became the
10:56:18 manager of the tobacco materials group, with that
10:56:20 individual becoming the manager of the
10:56:22 Semi-Works.
10:56:26 And in 1985, I became the director of
10:56:28 process development within R&D.
10:56:34 Q. And did you hold that job until
10:56:38 October of 1989, when you were named plant
10:56:40 manager of Bermuda Hundred?
10:56:40 A. That's correct.
:56:46 Q. The position of director of process

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development, is that currently held by Harold Burnley?

A. Yes, it is.

Q. And did he replace you?

A. Yes, that's correct.

Q. Prior to 1982, when you served as the manager of Semi-Works, did you hold a position at Philip Morris?

A. Yes, I did. Prior to that I was the manager of purchasing planning, a position I held from sometime in 1980 up until the early part of 1982.

Q. And prior to that, did you hold a position at Philip Morris?

A. Prior to that position I had been through a series of positions within the engineering organization, dating back to my coming with the company in September of 1973.

Q. Are you trained as an engineer?

A. Yes, my undergraduate degree is in chemical engineering.

Q. Did you pursue any education after that?

A. I did a night school program at the

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University of Richmond and acquired a master of commerce.

Q. When did you graduate from college?

A. I completed my undergraduate studies in 1969.

Q. And what was your first employment after college?

A. I was employed with Firestone Synthetic Fibers Company in Hopewell, Virginia.

Q. In your current position as director of quality and specifications systems, does that include quality and specification systems of all of the Richmond processing plants?

MR. MURPHY: Again, as of March 1994?

MR. ROGERS: Yes.

A. The involvement that we have and have had since the organization or the reorganization into our current structure is almost exclusively focused on the cigarette make pack side of the business, with very little involvement, either formally or informally, in any other aspect of the business.

Q. What I'm trying to figure out is

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whether there are quality and specification systems at each Richmond processing plant, or whether they all report to you.

MR. MURPHY: I object to the form. You can answer.

A. First of all, to the best of my knowledge, the terminology "quality and specification systems" was a term that -- at least within Philip Morris U.S.A., that we coined to recognize the merger of a quality function and a specification function. As such, I'm not aware of that terminology being used anywhere else within the organization.

None of the quality functions that exist in any of our manufacturing facilities report to me.

Q. When you say "manufacturing facilities," do you include all of the Richmond processing plants?

A. Yes, I'm including anyplace where any form of manufacturing occurs.

Q. Would that include Park 500?

A. Yes, it would.

Q. And would that include the blended

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leaf facility?

A. Yes, it would.

Q. Would that include Cabarrus?

A. Yes, it would.

Q. Would that include Louisville, Kentucky?

A. Yes, it would.

Q. Who named you plant manager of Bermuda Hundred in October of 1989?

A. I don't know that I can answer the question accurately. I know who told me that I was going to Park 500. I truthfully can't remember whose name appears on the announcement.

Q. Who told you?

MR. MURPHY: Just to clarify the record, the question was, "Who named you plant manager of Bermuda/One Hundred?" I think, Mr. Knudson, you misspoke and referred to the fact that you were told that you were going to Park 500. Did you mean Bermuda/One Hundred?

THE WITNESS: I meant Bermuda/One Hundred, yes.

MR. ROGERS: Thank you, David.

Q. Who told you you were going to

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Bermuda Hundred in October of '89?

A. Ken Houghton.

Q. And what was his position at the time?

A. Ken was the vice president of R&D.

Q. Had there been a plant manager of Bermuda Hundred before you were named?

A. Yes, there had.

Q. And who was that?

A. John Higgs.

Q. What was the nature of the operations at Bermuda Hundred when you were named plant manager in October of 1989?

A. The facility was in construction, but sufficiently far along that some startup activities were also going on concurrently.

Q. And when we're referring now to Bermuda Hundred, does that include both the Bermuda Hundred pilot plant and the Bermuda Hundred commercial plant?

A. No. The Bermuda pilot plant was a part of the R&D structure, and the Bermuda Hundred facility was a manufacturing facility that would have reported on the manufacturing

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side of the organization.

Q. So did you have a counterpart plant manager at the Bermuda pilot plant when you were named plant manager of Bermuda Hundred?

MR. MURPHY: I object to the form. You can answer the question.

A. The Bermuda pilot plant reported into a manager within the process development organization in R&D, and there was a senior responsible person on-site; however, their title was not manager, and I can't at this time recall what that title was.

Q. Do you recall who that senior responsible person was?

A. I believe at that time it was Gary Romic.

Q. Did James Narren ever serve as the plant manager for Bermuda Hundred?

A. Not to my knowledge.

Q. You mentioned that when you were named, that plant was still under construction. When did the construction -- when was the construction completed?

A. I'm not sure at this time I can

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11:04:58 recall when the construction completed. As with
11:05:00 any new facility, the initial intended
11:05:08 construction completes, there's follow-up work,
11:05:10 probably no different from building a home and
11:05:12 having the contractor come back in and do some
11:05:14 further things, the walls aren't right, the doors
11:05:24 don't hang square, whatever the case may be.
11:05:26 I would be guessing to try to put a
11:05:28 time frame on when that construction completed.
11:05:30 Q. When did the operations begin?
11:05:34 A. The operations were in the throes of
:05:40 beginning in terms of equipment, shakedown
11:05:44 testing, flushing lines, and actually beginning
11:05:48 to process product through there, before I
11:05:48 arrived in there.
11:05:56 Q. And what was the processed product
11:05:58 that you just referred to?
11:06:00 A. The product from the Bermuda Hundred
11:06:08 facility was a supercritically denicotinized
11:06:10 cigarette filler.
11:06:16 Q. Prior to your appointment as plant
11:06:20 manager, did you have any involvement in the
11:06:22 development of this denicotinized cigarette
:06:22 filler?

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11:06:24 A. Yes, I did.

11:06:26 MR. MURPHY: Would this be a convenient time to take a very short break?

11:06:30 MR. ROGERS: Sure.

11:06:30 THE VIDEO OPERATOR: We're going off the record. The time on the screen is 11:06:32.

11:06:36 (A recess was taken.)

11:17:12 THE VIDEO OPERATOR: We're back on the record. The time on the screen is 11:17:15.

11:17:20 Q. Mr. Knudson, earlier today we were talking about the relationship between your group or department and the Richmond processing plants. And I had asked you whether there are quality and specification systems at each plant.

11:17:36 And you corrected me on the terminology, and described that "'Quality and specification systems' is a term at least within Philip Morris U.S.A. that we coined to recognize the merger of a quality function and a specification function."

11:17:50 Do you recall that testimony?

11:17:50 A. Yes.

11:17:56 Q. And then, and I'll just read it, you said, "None of the quality functions that exist

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in any of our manufacturing facilities report to me."

My question is, do any of the specification functions that exist in those manufacturing facilities report to you?

A. The answer is no. I'm not even sure that there is a formal specification functionality existent within the factories.

Q. If, taking a hypothetical, you were to change a specification in the RL process, who would that notice of a specification change go to at Park 500?

MR. MURPHY: Time frame?

MR. ROGERS: We can stick with the March '94 date if you'd like.

MR. MURPHY: Fine.

A. To change a specification at Park 500 would be something that, quote, Philip Morris would do. It's not something that my organization would do. It would be done elsewhere. Those specifications are handled elsewhere in the organization.

So I don't know who that information would go to.

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11:19:22 Q. And when you say "those specifications are handled elsewhere in the organization," do you know where specifically within the organization?

11:19:34 A. To the best of my understanding, those specifications are actually made up of several parts and exist in different parts of the organization.

11:19:44 Q. What ~~are the~~ specific parts of the organization that come to your mind?

11:19:48 MR. MURPHY: I object to the form.

:19:50 You can answer.

11:19:56 A. Again, I'm answering to the best of my recollection. There would be a portion of the specification for Park 500 that would be leaf-related, which would come from the leaf organization. There would be a portion of the specification that would be flavor system related, that would come from, I believe, the flavor development arena within R&D.

11:20:38 And to tell you the truth, I'm not sure where some of the processing specifications are developed and housed, as to whether they exist somewhere in what I'll refer to as the

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staff groups, or whether some of those processing specifications exist within the factory facility itself.

Q. Who approves specification changes?

MR. MURPHY: I object to the form. You can answer the question.

A. Again, because "specifications" is a very broad terminology that applies to any number of different parameters, the answer would be different depending on what type of specification you were referring to.

Q. Let's focus then on Park 500. There's a proposal to change a particular specification in the reconstituted tobacco process. Describe to me how that change is proposed, then approved, and then implemented.

MR. MURPHY: I object to the form. You can answer the question.

A. I am not familiar enough with the details of how that would occur to be able to answer that question with any accuracy.

Q. When you mentioned earlier that Ken Houghton informed you that you would be the plant manager of Bermuda Hundred, what was his position

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at that time?

A. I believe I've already answered that question, but the answer is that he was the vice president of R&D.

Q. Do you work closely with the vice president of R&D in your present job?

MR. MURPHY: I object to the form. You can answer.

A. I see Ken from time to time. Ken expresses some of his thoughts and ideas as far as quality related parameters to me. But no, I wouldn't describe it as working closely with him.

Q. Do you sit on any committees or working groups together?

A. To the best of my recollection, the only committee that I sit on that he also sits on is the patent review committee.

Q. What are the responsibilities of the patent review committee?

A. I don't know that I've ever seen any formal description of those responsibilities.

Q. Could you describe what you do on that committee?

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11:24:06 A. My principal role is in discussions of patents as they relate to cigarette processing, whether or not there is any potential that a concept has a positive application with respect to quality or quality measurement, or has the potential to have some negative implications.

11:24:32 Q. Does this committee approve patent applications?

11:24:34 MR. MURPHY: I object to the form of the question. I think the United States Patent Office approves patent applications.

11:24:42 MR. ROGERS: I'm talking about a patent -- the approval of a decision within Philip Morris to formally apply for a patent.

11:24:50 MR. MURPHY: With that clarification, you can answer the question.

11:24:56 A. The patent -- my perception is that the role the patent review committee plays is to review potential patent applications as to whether or not they are viable for further consideration, which then might result in them being carried forward to a stage of actually being formally brought forward as a patent

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application to the U.S. Patent Office.

Q. Does this patent review committee make a recommendation to someone at a more senior level at Philip Morris who then decides, or does the approval come at the committee stage?

MR. MURPHY: I object to the form. You can answer the question.

A. I believe it is correct to characterize that which the patent committee does as to make recommendations on those potential patent items, as to whether or not they seem worthy of further pursuit.

But it's a loosely constructed group from a number of different areas, and I'm not sure what significance that recommendation has or who makes the final decision.

Q. To whom is the recommendation made?

A. I'm not sure I know who the recommendation is formally made to.

Q. Do you know who receives notice of the recommendation?

MR. MURPHY: I object to the form. You can answer.

A. I guess I'm placed in the position of

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guessing. It's one of these processes that occurs that once I have voiced an opinion, I don't have a great reason to be concerned about what the rest of the process looks like.

I would assume the recommendation -- and that's all it is, is an assumption or a guess -- but I would assume the recommendation would go to one of any number of senior people in the organization, depending upon the area in which the patent was being pursued.

Q. How long have you sat on this committee?

A. I don't know that I can put any kind of an exact time frame on it. To the best of my recollection, I sat on that committee in some form or another during part of my tenure at R&D, and have sat on that committee in my present position as director of quality assurance and subsequently director of quality and specification systems.

Q. Who else sits on that committee with you?

MR. MURPHY: As of March 24, 1994?

MR. ROGERS: We can use that date.

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11:28:36 A. The representation on the committee is from basically the technical organizations within the company, i.e. the quality organization, the engineering organization, R&D. There's someone there representing the legal department with respect to their activities with respect to those patents, because there are frequent substitutes sent to the meeting.

11:29:18 I couldn't name who are the, quote, official patent committee members.

11:29:22 Q. Can you name any members of the committee?

11:29:26 A. I know that within the MTS organization, that several of my peer directors in that organization sit on that committee. Chris Irving and Bill Poorbaugh. To the best of my recollection, the directors in R&D sit on that committee.

11:29:56 Q. What is the MTS organization?

11:30:02 A. MTS organization, MTS stands for manufacturing technical services. It was, again, a name that was coined to describe the functionality that exists when the quality function was merged with the then existing

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engineering function.

Q. What other committees do you sit on?

A. As of March of 1994?

Q. We can stick with that date.

A. I'm not sure that I recall any formal or official committees that I sit on.

Q. Do you have any contact with Philip Morris public affairs employees?

MR. MURPHY: I object to the form. Again, are we talking about the period prior to March 24, '94?

MR. ROGERS: Sure.

A. Before I answer that question, I guess in order to provide you with an accurate answer, I would appreciate a little clarification as to what the Philip Morris public affairs functionality is that you're referring to.

The difference between organizational titles and organizational roles sometimes becomes very confused, and I couldn't necessarily tell you whether the title of a group was Philip Morris public affairs or whether it would be my perception that that was one of their roles or their principal role or whatever.

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11:31:50 Q. If I understand your question, is there a public affairs office within Philip Morris?

11:31:54 MR. MURPHY: I object to the form. Are you asking him whether Philip Morris U.S.A. has a public affairs office?

11:32:00 MR. ROGERS: Yes.

11:32:06 A. I don't know that there is an organization of that exact title.

11:32:08 Q. Do you know who Victor Han is?

11:32:14 A. Yes, I do. I know the name.

11:32:16 Q. Have you had any contact with him?

11:32:20 MR. MURPHY: I object to the form. You can answer the question.

11:32:22 A. I don't recall having any contact with Victor Han prior to March of 1994.

11:32:26 Q. Your last answer was "I don't recall having any contact with Victor Han prior to March of 1994." The date restriction that David has mentioned today is March 24, 1994. Is your answer the same with respect to contacts with Mr. Han prior to March 24, 1994?

11:32:54 A. Yes, it is.

11:32:58 Q. Do you know who H. L. Spielberg is?

11:33:02

11:33:08

11:33:10

11:33:14

11:33:16

11:33:28

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11:33:32 A. I assume that would be Howard Spielberg.

11:33:36 Q. What is his position?

11:33:38 MR. MURPHY: As of March 24, 1994?

11:33:40 MR. ROGERS: Sure.

11:33:54 A. Howard is presently retired, and I don't recall when he retired. So I don't know

11:33:56 whether it is prior to or post that date.

11:34:02 Q. Did he ever work within your

11:34:02 department?

11:34:08 A. No. Let me rephrase that. Howard

:34:14 never worked in any organization that I was

11:34:16 responsible for during the time that I was

11:34:20 there. I don't have any knowledge of whether he

11:34:22 might have worked in a department that I was in

11:34:24 but at different times.

11:34:28 Q. Do you recall any positions that he

11:34:30 held at Philip Morris prior to his retirement?

11:34:46 A. Again, I have recollection of Howard

11:34:52 having a series of titles on what is referred to

11:35:02 as the technical ladder within R&D, and also at

11:35:04 one point in time stepping off the technical

11:35:16 ladder to -- at one time stepping off the

:35:22 technical ladder or being asked to take a

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position that would have moved him off the technical ladder to be a manager of a particular functionality within the product development organization.

Q. You mentioned that you had a recollection of him having a series of titles on what's referred to as the technical ladder. Do you remember any of those titles specifically?

A. Having been out of R&D for a number of years, I have a vague recollection of those titles, and believe that at one point in time Howard was a -- carried the title of principal scientist in the product development area. I don't accurately recall what other titles he might have carried.

Q. And you mentioned in addition that you recall that he stepped off the technical ladder, was asked to take a position to be a manager of a particular functionality within the product development organization.

Do you remember what that particular functionality was?

A. Again, it's one of these vague recollections. My guess would be that he was the

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11:36:48 manager of the flavor development organization
11:36:48 when he was a manager.
11:36:54 Q. Is the flavor development
11:37:04 organization different than flavor technology?
11:37:08 A. To the best of my knowledge, that
11:37:12 represents a change over a period of time in
11:37:18 nomenclature applied to a group. I don't know
11:37:22 whether in that change of terminology there were
11:37:24 also changes in responsibilities or
11:37:26 functionalities within that group.
11:37:36 Q. Do you know who J. E. Bickett is?
:37:40 A. Assuming that those initials fit Joe
11:37:44 Bickett, yes, I know who Joe Bickett is.
11:37:48 Q. As of March 24, 1994, what was Joe
11:37:50 Bickett's position at Philip Morris?
11:37:56 A. I believe that at that point in time
11:38:04 he was the director of -- and I may not be 100
11:38:06 percent accurate on the title of his
11:38:12 organization, but the director of packaging
11:38:14 development.
11:38:18 Q. Prior to that time, do you recall any
11:38:22 other positions he's held at Philip Morris?
11:38:28 A. I can more accurately answer that by
:38:32 saying that I know that prior to that, Joe was

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involved in the Cabarrus expansion project as one of the principals, but I don't recall what his particular title was. Prior to that, I believe that he worked in the area that included the specification functionality within manufacturing.

Q. Do you recall what dates that would be that he was involved in what you describe as the area that included the specification functionality within manufacturing?

A. Other than to guess that it was sometime in the 1980s, I don't think I can be more specific.

Q. Is there an entity within Philip Morris called the quality council?

A. Yes, there is.

Q. What is the quality council?

A. The quality council is a group of people who function as the leadership team for a total quality improvement or total quality management process, that within Philip Morris has been coined MIP or the manufacturing improvement process.

Q. Do you sit on that quality council?

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11:40:16 A. No, I don't.

11:40:18 Q. Do you know who does?

11:40:24 A. I believe that I can name most of the members of the quality council.

11:40:30 Q. Okay. As of March 24, 1994. Go ahead.

11:40:36 A. As of March 24, 1994, the quality council would have been headed by Steve Darrah. The additional representation on that council at that point in time would have included Bill Taylor, Frank Watson, Linda Markham, Tom Gatz, Ray Taylor, Salvador Rivera, John Whitman; would have included Curt Hunkler, Bob Lacshaw; would have included a representative from the HR functionality.

And because there has been a retirement in that area, I'm guessing when I say at that time it was prior to the retirement, and so therefore Barry Case would have been the representative from that area.

11:42:00 Q. What is the HR functionality?

11:42:02 A. The human relations or human resources functionalities.

:42:08 Q. And you described the council as the

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11:42:10 leadership team for a total quality improvement
11:42:16 process. Can you give me more detail
11:42:18 specifically about what they do?
11:42:18 MR. MURPHY: I object to the form.
11:42:20 You can answer the question.
11:42:26 A. As you are probably aware, there have
11:42:28 been a number of articles, books, and careers
11:42:36 produced by the concept of total quality
11:42:44 management or total quality initiatives.
11:42:46 Philip Morris has embarked on an
11:42:52 effort in that direction, and most all of the
:42:54 literature that one might read in that arena says
11:43:00 that one of the keys is to have a commitment from
11:43:06 the top management, and in fact a number of those
11:43:10 recommend the ~~forms~~ formation of a functionality ~~called the~~ called a
11:43:12 quality council.
11:43:18 And their role is to oversee the --
11:43:20 at this stage, implementation and refinement of
11:43:24 this total quality management process.
11:43:26 There are -- just a correction to
11:43:30 what I told you earlier, there are two
11:43:34 consultants that are working with the company on
11:43:40 that process, and although I frequently tend to
:43:44 forget their inclusion in the quality council, I

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think it is probably correct to say that they are also considered members of the quality council, their names being Gil Keegan and Bob McCarthy.

Q. Does the quality council have any involvement in specifications of Philip Morris products?

MR. MURPHY: I object to the form. You can answer.

A. Not at any level of detail. Conceptually it would be possible for specification topics to be reviewed with the quality council. Another correction, and again, I'm unclear on the date, the quality council as I had enumerated it, with the exception of the consultants, essentially represents the manufacturing side of the house.

What I've left out, because of the time framing, was that Dave Milby was on the quality council, based on his role at that point in time. I believe at that point in time that Ken Houghton was also on the quality council.

Q. We talked earlier about finished product specifications, and more specifically about tar as a finished product specification.

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And you referred to the FTC method. Does Philip Morris use what's known as the FTC machine to measure tar?

A. I don't know what the machine is called.

Q. Who is in charge of measuring tar?

MR. MURPHY: I object to the form. As of when?

MR. ROGERS: We can stick with your date of March 24, 1994, if you would like. I'm interested in understanding the person's title as well as the person's --

MR. MURPHY: Individual, department?

MR. ROGERS: Both.

Q. Let's start with department.

A. In March of 1994, the only smoking lab that existed within the company existed within R&D, in an organization which at that time was either called CTSD, which stood for Cigarette Testing -- and I'm not sure about the rest of it, but then Division.

It was a division within R&D, which I think at some point in time subsequently underwent a name change to be referred to as the

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physical testing laboratory. At that time the manager -- the group is headed by a manager, and the manager of that group -- pardon me, I believe the manager at that point in time was Bob Fenner.

Q. This is the manager of what you've referred to as CTSD?

A. Yes.

Q. Would it refresh your recollection if I said that CTSD stands for the Cigarette Testing Services Division? Does that sound right?

A. That's probably the correct name for that organization.

Q. And the measurement ~~for~~ of tar, is it tar delivery?

MR. MURPHY: I object to the form of the question. I think the question is unclear.

A. My understanding of the FTC method is that it is a method of measuring the tar delivery of a cigarette.

Q. Have you signed a confidentiality agreement since you've been employed with Philip Morris?

A. Yes, I have.

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11:48:48 Q. Do you recall when you signed that agreement?

11:48:54 A. The --

11:48:56 MR. MURPHY: I object to the form. I don't think you mean to be confusing, Alex, but are you asking the witness when was the first time that he can recall having signed a confidentiality agreement?

11:49:12 MR. ROGERS: I'll adopt that question. That's better than my question. I'll take that.

:49:24 A. I can't recall when I first signed a confidentiality agreement, that is, whether I did it when I first came with the company or sometime subsequent to that. There was a subsequent generation of the confidentiality agreement that I signed at some time during my tenure in R&D.

11:50:00 Q. What do you mean by "a subsequent generation of the confidentiality agreement"? An entirely new confidentiality agreement, or were these additions to or amendments to the existing agreement that you recall signing?

11:50:14 A. I don't know that I can answer the

:50:16 question accurately because I don't recall the

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details of either one of those documents. My understanding was that there had been some modifications made to the confidentiality agreement.

Q. And this reference to a subsequent generation of a confidentiality agreement, have there been others, or was there just this one instance when you entered the R&D department or organization?

A. A clarification. I don't know that it occurred -- I don't believe it occurred when I entered the R&D organization. I think it was at some time during my tenure in that organization. And that is the only -- only time I am aware of ~~when~~ that there was a change to that document.

Q. To your knowledge, are there any types of documents to which you do not have access by virtue of a confidentiality agreement?

MR. MURPHY: I object to the form of the question. If you understand what you're being asked, you can answer the question.

A. I don't know that the confidentiality agreement, at least to my way of thinking, restricts my document access.

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11:51:42 Q. Has there ever been an instance that
11:51:46 you can recall in which you were denied access to
11:51:48 a particular document?
11:51:50 MR. MURPHY: I object to the form of
11:51:50 the question. You can answer.
11:52:04 A. The entire specification system is
11:52:16 considered proprietary. And various and sundry
11:52:20 pieces of specification information that if all
11:52:24 put together in one pile represent all of the
11:52:26 proprietary information on how to produce, quote,
11:52:36 Malboro, are purposely held in separate areas.
:52:44 And when I first came to have
11:52:44 responsibility for the manufacturing
11:52:48 specifications arena, I inquired as to what some
11:52:52 typical documents looked like that were part of
11:52:54 that system, and became very aware of the
11:52:58 security measures that restricted my having
11:53:00 access to all of those documents.
11:53:04 Q. Was your access restricted or did you
11:53:08 have total access to that collection of documents
11:53:08 to which you've referred?
11:53:10 MR. MURPHY: I object to the form of
11:53:12 the question. I don't know what "total access"
:53:14 refers to. But you can answer the question.

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11:53:22 A. Once I was aware of the concerns and
11:53:26 the security systems, I was able to define the
11:53:30 sort of information that I felt like I needed to
11:53:34 be aware of in order to be the director
11:53:36 responsible for that group in such a way that I
11:53:44 was able to see those documents, not necessarily
11:53:48 all of a singular brand.
11:53:54 Q. Let's shift to talk about documents
11:53:58 generally. Do you maintain files within your
11:53:58 office?
11:54:00 A. Yes, I do.
:54:06 Q. And were those files searched for
11:54:10 documents in this case?
11:54:12 A. Yes, I believe they were.
11:54:14 Q. Did you conduct that search?
11:54:16 A. No.
11:54:18 Q. Do you recall who did?
11:54:20 A. No.
11:54:22 Q. Do you recall where they searched?
11:54:26 A. I'm not sure I understand the
11:54:28 question.
11:54:32 Q. We were speaking about files that are
11:54:36 maintained in your office. Were all of your
:54:40 files searched for documents that may or may not

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be responsive to document requests or court orders in this case?

MR. MURPHY: I object to the form of the question. You can answer the question.

A. To the best of my knowledge, all of the files in my office were searched for documents pertinent to this case.

Q. Do you have a secretary?

A. Yes, I do.

Q. Does your secretary maintain files for you?

A. She maintains a central file system, and she also maintains my file system.

Q. Do you know whether the files that are maintained by your secretary for you were searched?

A. It is my understanding that they were.

Q. Do you know if any documents in your possession that were identified in this search were produced to the defendants in this case?

A. I know there were only limited documents that those people doing the searching expressed any interest in. What I obviously

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don't know is whether or not those documents were forwarded on to anybody or not.

Q. Do you have a computer in your office?

A. Yes, I do.

Q. Do you know whether the files on your hard drive were searched for documents?

A. I truthfully don't know.

Q. Prior to the commencement of this lawsuit, were you consulted by any Philip Morris employees about the content of the Day One broadcasts that are at issue in this case?

A. No.

Q. Were you consulted about the complaint that Philip Morris filed? This complaint is referred to in Virginia as a motion for judgment.

MR. MURPHY: I object to the form of the question. I will let the witness answer this question, but I would direct him to exclude from his answer any conversations that he may or may not have had with in-house or outside counsel in connection with the preparation of this lawsuit or the filing of the amended motion for judgment

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or the original motion for judgment.

With that limitation and subject to that claim of attorney-client privilege, you can answer the question.

A. Could you repeat the question for me?

Q. Sure. Were you consulted about the complaint that Philip Morris filed, and this complaint I'm referring to is referred to in Virginia as a motion for judgment --

MR. MURPHY: And again, exclude from your answer any consultation with counsel for Philip Morris, and that would include inside counsel or outside counsel.

A. I guess I'm still unclear on what a motion for judgment is.

Q. It's essentially the complaint. It's what initiates the lawsuit in Virginia.

A. Okay. No.

Q. Prior to March 24, 1994, did you -- strike that, I'm sorry.

Do you know what an interrogatory is?

A. Not exactly, no.

MR. MURPHY: Alex, let me clarify one

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11:58:34 aspect of the instruction that I gave the witness
11:58:38 a moment ago. I will let the witness answer the
11:58:42 question of whether he was consulted in
11:58:44 connection with the preparation of this lawsuit.
11:58:46 My instruction to the witness may have been
11:58:48 unclear.
11:58:50 It was unintentional on my part. I
11:58:52 would direct the witness in answering that
11:58:56 question to limit himself to a yes or no answer
11:59:00 and not to reveal in any way any communication or
11:59:04 consultation that he may have had with in-house
:59:06 or outside counsel or anyone working at the
11:59:06 direction of counsel.
11:59:10 With that clarification, you might
11:59:12 want to re-ask the question, because I think my
11:59:16 prior instruction was unintentionally overbroad.
11:59:16 MR. ROGERS: I appreciate that
11:59:18 clarification.
11:59:20 Q. And having heard that clarification,
11:59:26 Mr. Knudson, were you consulted in connection
11:59:30 with the preparation of the complaint that was
11:59:32 filed in this lawsuit?
11:59:36 A. When I answered the question I
:59:40 interpreted that to be any activity that would

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have led to the filing of the complaint. If that's a correct judgment of the question, then my answer is still no.

Q. Were you involved in any discussions about whether Philip Morris would respond to press inquiries by ABC employees prior to the broadcast?

A. No.

Q. Were you involved in any discussions about the content of Philip Morris's response to press inquiries by ABC employees prior to the broadcast?

A. No.

Q. Do you know whether Philip Morris responded to press inquiries by ABC employees?

A. No, I'm not aware of that.

Q. Let's return to the issue of interrogatories, which we've just started before we were sidetracked by that important clarification. Do you know who Alphonso Carey is?

A. No, I don't.

Q. Are you aware that ABC propounded a series of interrogatories on Philip Morris in

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this case?

A. I guess before I can answer that question I need you to define "propounded."

Q. Okay. Let's start with an interrogatory. And don't hesitate to ask any further questions. An interrogatory is an aspect of discovery that involves a question that is posed to the opposing party and requests a specific answer by that party that is then produced to the party that propounded the question. That's what an interrogatory is.

A. Okay.

Q. By the word "propounded," I mean simply that ABC served on Philip Morris a series of these interrogatory questions requesting answers to specific questions.

A. Mm-hmm.

Q. And are you aware that ABC has or in fact did serve such interrogatories on Philip Morris?

A. I guess I was aware that that had occurred, probably because I heard somebody make some comment about and mention the word "interrogatory." I had heard the term before.

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12:02:58 Q. Okay. The reason why I ask is you
12:03:00 were identified on one set of interrogatory
12:03:02 answers or at least one set of interrogatory
12:03:06 answers as having been consulted in the
12:03:08 preparation of the answers. Do you recall being
12:03:10 consulted?
12:03:14 MR. MURPHY: I object to the form of
12:03:16 the question. I just would caution the witness
12:03:18 that although he may answer the question of
12:03:22 whether he recalls being consulted by counsel or
12:03:24 anyone working for counsel in connection with the
:03:26 preparation of an answer to ABC's
12:03:30 interrogatories, that he should not reveal the
12:03:32 substance of any communication that he had with
12:03:36 counsel or a representative of counsel.
12:03:38 With that clarification, and I
12:03:40 realize the question as asked is appropriate, I
12:03:42 will let him answer the question.
12:03:48 A. I think my point of confusion was
12:03:56 probably a lack of awareness on my part that what
12:03:56 I was doing had anything to do with
12:04:00 interrogatories. I was asked to meet with
12:04:10 counsel, and that, as I understand now, resulted
:04:14 in some feedback to these interrogatories.

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Q. Have you ever seen the final version of the interrogatory answers that Philip Morris produced to ABC?

A. No, I have not.

Q. Have you had any discussions with anybody about the final version of the interrogatory answers?

MR. MURPHY: And again, you can answer the question as to whether discussions occurred. But I would instruct you, Mr. Knudson, not to reveal the discussions, if they did occur.

MR. ROGERS: I just want to clarify your objection, David. Your instruction is not to reveal the discussions if they occurred with lawyers?

MR. MURPHY: I'm sorry. Not to reveal the substance of discussions that may or may not have occurred.

MR. ROGERS: With lawyers?

MR. MURPHY: With lawyers or with those who he understood to be representing or working at the direction of counsel.

MR. ROGERS: Okay.

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Q. Do you recall the question?

A. No. Could we go back to the question, please.

Q. Sure. Have you had any discussions with anybody about the final version of the interrogatory answers that Philip Morris served on ABC?

A. Not to the best of my knowledge.

MR. MURPHY: As an aside, Mr. Knudson, if at any point in the deposition either Alex or I use terms like "interrogatories" or "propound" or the other jargon that is the trap into which lawyers fall, please feel free to let us know that, and we will try to explain the arcane words that we're using.

Q. As I'll ask you to explain some of the arcane words that are contained in Philip Morris documents.

MR. MURPHY: Fair enough.

(Knudson Exhibit 1 for identification, Philip Morris Incorporated's answers to American Broadcasting Companies' first set of interrogatories.)

Q. Mr. Knudson, you've just been handed

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what's been marked as Knudson Exhibit 1, entitled "Philip Morris Incorporated's answers to American Broadcasting Companies' first set of interrogatories."

And I'll give you a moment to familiarize yourself with it. I'm going to ask you a couple of specific questions and I'll direct you to those sections. But at the outset, if you would please flip to the middle, roughly the middle, where you'll see the page numbers start again at 1, and at the top of this page in the middle is "Addendum," and it says, "Addendum, tobacco processing and cigarette manufacturing at Philip Morris."

Do you see that page?

A. Yes.

Q. Were you aware before looking at this document that in addition to providing specific answers to ABC's questions, that Philip Morris also provided this addendum?

MR. MURPHY: I object to the form of the question. I think it misstates what the addendum represents.

MR. ROGERS: I'm not sure I

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12:07:54 understand your objection, David.

12:07:56 MR. MURPHY: I think the addendum is

12:07:58 offered as part of an interrogatory answer.

12:07:58 MR. ROGERS: Fair enough. I didn't

12:08:02 mean to suggest otherwise.

12:08:04 A. I'm sorry. Could you repeat the

12:08:06 question?

12:08:06 Q. Sure. Were you aware before looking

12:08:10 at this document today that Philip Morris

12:08:16 provided an addendum that describes tobacco

12:08:20 processing and cigarette manufacturing at Philip

:08:20 Morris?

12:08:20 A. No.

12:08:30 Q. If you'll turn to page 9 of this

12:08:34 addendum.

12:08:36 (Witness complies.)

12:08:44 Q. Are you there?

12:08:46 A. Mm-hmm.

12:08:46 Q. You'll see number 2, and the

12:08:50 subheading, "RL process." And I want to go

12:08:52 through some of the information on this

12:08:54 paragraph, so I'll simply read this paragraph,

12:08:56 and then we'll ask specific questions.

:09:00 "Philip Morris U.S.A.'s RL process

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is a modified paper making process. The process is similar to that used to make paper but the sheet is made from tobacco materials instead of wood. No extraneous nicotine is added to the tobacco materials in the process.

"In fact, a significant reduction of the nicotine naturally occurring in tobacco (of approximately 18.8 percent based upon the measurement of alkaloids) occurs as a result of both yield losses in the process and thermal treatment in the drying process.

"Although nicotine is necessarily lost as a result of these processes, Philip Morris does not specifically attempt to remove the nicotine from the tobacco materials in the reconstitution process because nicotine is a natural component of the tobacco."

My specific question is to a sentence in the middle that refers to, quote, "A significant reduction of the nicotine naturally occurring in tobacco occurs as a result of yield losses and thermal treatment."

Are you aware of the nicotine loss that this addendum is referring to?

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MR. MURPHY: I object to the form of the question. You can answer if you understand the question.

A. I think the only thing that I'm aware of is that I have a general understanding of the RL process, and so it, as an engineer, doesn't surprise me that any process has losses along the way. So it doesn't surprise me that there is a reduction of nicotine that occurs somewhere in the process.

Q. Prior to seeing this paragraph, were you aware of a nicotine loss occuring in the RL process?

MR. MURPHY: I object to the form of the question. Are you asking him whether he was aware of a specific amount of loss or are you asking him whether he was aware of the fact that losses occur?

MR. ROGERS: That's a fair point. I'll ask both questions.

Q. Prior to seeing this document, were you aware of a specific amount of nicotine lost in the RL process?

A. No.

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Q. Were you aware of the fact that losses occur, nicotine losses occur generally in the RL process?

A. I believe the answer to that is yes, and it's basically the intuitive engineering understanding that losses occur in virtually every process of some form or another.

Q. What losses would occur based upon your experience in engineering?

MR. MURPHY: I object to the form of the question. Are we still asking what losses occur in this specific process?

Q. I'm simply trying to understand the basis upon which you answered the question, were you aware of the fact that losses occur generally. And you described the basis as, quote, "The intuitive engineering understanding that losses occur in every process."

And I'm trying to understand specifically what you understand those losses to be.

MR. MURPHY: I object to the form. If you understand what you're being asked, you can answer the question.

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12:12:36 A. And I'm not sure that I totally
12:12:42 understand the question. But in general, from an
12:12:44 engineering perspective, the challenge that
12:12:48 engineers frequently deal with in any number of
12:12:54 industries is to optimize the output of a process
12:13:00 versus the theoretical output of a number of
12:13:02 constituents going into a process and what comes
12:13:04 out the far end.

12:13:10 To achieve 100 percent efficiency
12:13:12 with zero yield ~~loss~~ losses, there are very few
12:13:14 processes that accomplish that.

:13:16 Q. The term "yield losses" that you've
12:13:18 just used and that appears in this paragraph,
12:13:18 what do you understand that to mean?

12:13:22 A. Yield losses as I've answered the
12:13:32 question is any loss that results in less than
12:13:38 all of the masses that went into a process coming
12:13:40 out the back end of that process. They may be
12:13:46 accounted for, but they didn't end up in the
12:13:50 defined finished product of a process.

12:13:52 Q. And --

12:13:52 A. That may be different than the
12:13:56 particular application that's used here.

:14:08 Q. Do you see the reference in this same

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sentence to thermal treatment in the drying process?

A. Mm-hmm. Yes, I do.

Q. What do you understand that to mean with respect to nicotine losses?

MR. MURPHY: In this process?

MR. ROGERS: Yes.

A. That an exposure of a nicotine containing tobacco, when subjected to heat in the presence of moisture, generates an elevation of temperature in the tobacco. And that might be termed a thermal treatment of the tobacco. And if that elevation and temperature is sufficient, that water might be driven off, and in the course of that water being driven off, that other constituents including nicotine might come off with it.

Q. Are you aware of any measurements that Philip Morris takes of nicotine emissions at Park 500?

MR. MURPHY: I object to the form. Do you mean ambient air emissions, Alex?

MR. ROGERS: Yes.

A. I believe, and I must be general

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about the response to this question, I believe that Philip Morris from time to time takes measurements of ambient air, in which one of the things that one might look for would be the presence of nicotine in support of a safe workplace.

Q. What do you mean by a safe workplace? I'm not sure I understand why nicotine in particular would be directly related to safety of the workplace.

MR. MURPHY: I object to the form of the question. You can answer.

A. I think the awareness of any compounds that might come off from any processing step and be in the ambient air are things that a company would have a responsibility to have an awareness of.

Q. Are there any particular concerns about the presence of nicotine in the ambient air that you're aware of?

A. Not that I'm aware of.

Q. You said earlier that you have a, quote, general understanding of the RL process. Would you describe in greater detail what that

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12:17:30 understanding is? Again, I'm trying to get a
12:17:32 sense for what you know about the process.
12:17:34 MR. MURPHY: I object to the form of
12:17:38 the question. You can answer the question.
12:17:42 A. I have never worked in the RL
12:17:46 facility. I have over the course of my years
12:17:56 with the company from time to time seen documents
12:18:02 about the general process nature of the process
12:18:08 involved.
12:18:10 In my time in R&D as the manager of
12:18:14 the tobacco materials division, one of the areas
:18:22 that was a subgroup within that area included a
12:18:28 pilot plant facility for doing experimental work
12:18:34 in support of the RL process.
12:18:36 So I had a general understanding of
12:18:38 the process as opposed to a detailed
12:18:40 understanding of the process.
12:18:46 Q. What was that subgroup that you've
12:18:52 just described that worked on a pilot plant
12:18:54 facility for doing experimental work in support
12:18:56 of the RL process?
12:19:00 A. I truthfully can't recall the name of
12:19:06 the subgroup. The facility itself was located in
:19:08 what we referred to as the C pilot plant. And

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there were a group of one or more engineers that supported the experimental work in that area.

Q. What was the nature of the operations at the C pilot plant?

A. The C pilot plant was a very small scale paper making process that was intended to emulate the product that was produced at the RL plant for the purposes of producing small quantities of experimental product, which might be based on looking at different blend formulas as feedstock materials, or different flavor systems.

Q. Is the C pilot plant still in operation?

A. I do not know.

Q. Do you recall the dates during which time you worked on the seed pilot plant or at the seed pilot plant?

MR. MURPHY: I object to the form of the question. Misstates his prior testimony. You can answer the question.

A. My involvement with the C pilot plant I think would be misstated to say that I worked on or worked in. I was the manager of and then

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12:20:48 subsequently the director of an organization or
12:20:54 organizations of which that was a facet of the
12:20:54 organization.
12:21:00 Q. And do you recall the dates during
12:21:06 which time you had any involvement in the C pilot
12:21:06 plant?
12:21:12 A. The time frame that I was the manager
12:21:18 of the materials, tobacco materials division, as
12:21:24 I have stated earlier, was from basically
12:21:34 mid-1983 up until sometime in 1985.
12:21:36 And then subsequently from that time
:21:42 forward until October of 1989 when I left R&D I
12:21:44 was the director of process development, of which
12:21:46 that division was one of the divisions within my
12:21:48 organization.
12:21:50 Q. And during these time periods that
12:21:54 you've just articulated, the C pilot plant was in
12:21:54 operation?
12:21:58 A. The C pilot plant was operational
12:22:04 during most of that time period. Whether it
12:22:10 operated every day or not was a matter of test
12:22:12 plans and so on and so forth.
12:22:18 Q. Was the C pilot plant devoted to
:22:24 considering changes in the RL process as that

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process was carried out at Park 500, or was it considering an entirely separate paper making process?

MR. MURPHY: I object to the form of the question. You can answer the question.

Q. Do you understand what I'm asking?

A. I'm not sure. Would you restate?

Q. Sure. I'm trying to understand whether the C pilot plant was a facility that would test out new methods of making reconstituted tobacco for Park 500 or whether it was devoted to testing new methods of developing a new reconstituted tobacco product different than that which is produced at Park 500.

MR. MURPHY: I object to the form of the question. I still think the question is unclear. If the witness understands the question, he can answer it.

A. Based on what I believe you're asking, I believe that the purpose for that pilot plant was in fact principally to support, if you will, process or product improvement efforts relative to the existing process, but wouldn't preclude itself from the exploration or potential

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12:23:52 development of alternate processes.
12:23:56 Q. Okay. I think by that, that answer,
12:23:58 that you do understand my question. So we'll go
12:23:58 on.
12:23:58 A. Okay.
12:24:00 MR. MURPHY: I think that editorial
12:24:02 comment is completely beside the point.
12:24:08 Q. The process or product improvement
12:24:10 efforts that you've just described, can you
12:24:14 recall any specific process improvement efforts
12:24:20 that were implemented at Park 500?
:24:24 A. No, I cannot.
12:24:26 Q. Can you recall any product
12:24:32 improvement projects at the C pilot plant that
12:24:34 have been implemented at Park 500?
12:24:34 MR. MURPHY: Time frame?
12:24:38 MR. ROGERS: I'm comfortable sticking
12:24:42 with the March 24, 1994 date, if you'd like.
12:24:42 MR. MURPHY: Fine.
12:24:50 A. I'm not sure that there was any work
12:24:54 done in that pilot plant during the time frame
12:25:02 that I was responsible for it, either as the
12:25:06 manager or later as the director, that was in
:25:10 fact implemented at Park 500.

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12:25:14 Q. How about any product improvement
12:25:20 projects during the time frame that you were not
12:25:22 responsible, either as manager or later as
12:25:22 director?
12:25:24 A. I wouldn't have any knowledge of
12:25:24 that.
12:25:34 Q. Do you know whether nicotine is
12:25:40 measured at any stage in the RL process at Park
12:25:40 500?
12:25:42 A. No, I don't.
12:25:44 Q. Who would know the answer to that
:25:44 question?
12:25:46 MR. MURPHY: I object to the form of
12:25:48 the question. You can answer if you understand
12:25:48 the question.
12:25:58 A. I would assume that the best source
12:26:00 of the answer to that question would be the
12:26:02 management within that facility.
12:26:06 Q. What I'm asking is if you wanted to
12:26:10 know definitively whether nicotine is measured at
12:26:12 the Park 500 plant at any stage in the process,
12:26:14 who would you ask?
12:26:14 MR. MURPHY: Are you asking him a
:26:18 hypothetical question as a Philip Morris

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employee?

MR. ROGERS: I'll simply rephrase -- restate the question, rather. I think it stands clear as is.

MR. MURPHY: If you understand the question, you can answer. I object to the form of it.

A. If I had reason to want to know if that testing was done at Park 500, presumably I would start with the plant manager.

Q. Do you know whether nicotine is measured at the blended leaf facility at any stage in that process?

A. Not to my knowledge.

(Knudson Exhibit 2 for identification, Line 1/2 potential quality measurements.)

Q. Mr. Knudson, you've just been handed what's been marked Knudson Exhibit 2, which is a document entitled on the front page, "Line 1/2 potential quality measurements." The respective Bates numbers are PA 494519 through PA 494538. And the Philip Morris production numbers are 2030988982 to 2030989001.

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Have you ever seen this document before?

A. No, I haven't.

Q. Have you had any involvement in potential quality measurements for lines 1 and 2 at Park 500?

A. No, I have not.

Q. Do you know who is in charge of quality measurements at line 1 and 2 at Park 500?

A. In what time frame?

Q. That's a fair question. Let's use the March 24, 1994 date for consistency purposes.

A. I believe that the individual, to use my expression, responsible for the quality functionality in Park 500 at that point in time was Cherri Spellmeyer.

Q. Are you familiar with the term DNCEL?

A. Yes, I've heard the term.

Q. Do you know what those initials stand for?

A. I believe they stand for denitrated

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concentrated extract liquor.

Q. Do you know what the term "size prep" is?

A. Size prep?

Q. Yes.

A. I'm not sure, as that's used, how much of the process that that applies to.

Q. I'm not sure I understand your answer. What do you understand the term "size prep" to mean?

MR. MURPHY: I object to the form of the question. I'm not sure the witness has testified that he does have an understanding of the term.

A. I think it's probably most accurate to say that I am aware of having heard the term "size prep." I'm not sure that I can define that in any way that's accurate or meaningful, as it's typically used by those people familiar with the process.

MR. ROGERS: We've come to the end of the tape. Why don't we take a break for lunch, if that's suitable for you.

MR. MURPHY: That's fine.

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12:31:08 THE VIDEO OPERATOR: We're going off the record. This is the end of videotape number 1. The time on the screen is 12:31:13.

12:31:18 (Luncheon recess: 12:31 p.m.)

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